

Message Text

CONFIDENTIAL

PAGE 01 VIENNA 06664 01 OF 02 191555Z
ACTION OES-07

INFO OCT-01 AF-10 ARA-10 EA-07 EUR-12 NEA-10 ISO-00
ACDA-07 CIAE-00 INR-07 IO-13 L-03 NSAE-00 NSC-05
EB-07 NRC-05 FEAE-00 DODE-00 SS-15 SP-02 PM-05
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R 191443Z JUL 77
FM AMEMBASSY VIENNA
TO SECSTATE WSHDC 2602
INFO USERDA HQ WASHDC
USERDA HQ GERMANTOWN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY NEW DELHI
AMEMBASSY OTTAWA
AMCONSUL BOMBAY

C O N F I D E N T I A L SECTION 1 OF 2 VIENNA 6664

USIAEA

DEPT PASS IO/SCT

EO 11652: GDS
TAGSC PARM, TECH, IAEA, IN, UR, CA
SUBJ: INDIA/IAEA NEGOTIATIONS OF SAFEGUARDS AGREEMENT IN
CONNECTION WITH USSR-SUPPLIED HEAVY WATER

REF: VIENNA 6663

1. FOLLOWING HIS TEXT OF SECRETARIAT PAPER MADE AVAILABLE
BY ACTING IAEA DIRECTOR GENERAL HALL TO US, UK, USSR
AND CANADIAN REPS AT JULY 15 MEETING REPORTED REFTEL.

THE EXISTING CANADA/INDIA/IAEA AGREEMENT OF 1971 (STA)

CONFIDENTIAL

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PAGE 02 VIENNA 06664 01 OF 02 191555Z

1. THE CANADA/INDIA SAFEGUARDS AGREEMENT OF 1971 PROVIDES THAT
THE NUCLEAR MATERIAL USED OR PRODUCED IN THE RAJASTHAN ATOMIC
POWER STATION SHALL BE USED ONLY FOR PEACEFUL PURPOSES. THE
RAJASTHAN ATOMIC POWER STATION COMPRISES RAPP-1 AND HRAPP-2.
INDIA HAS STATED ON OTHER OCCASIONS THAT A PEACEFUL USE
UNDERTAKING DOES NOT PRECLUDE THE
MANUFACTURE OF A "PEACEFUL NUCLEAR EXPLOSIVE DEVICE". THE SAFE-

GUARDS PROCEDURES SET FORTH IN THE AGREEMENT ARE NOT CLEAR (BILATERAL SAFEGUARDS PROVISIONS HAVE BEEN INCORPORATED IN THE AGREEMENT) ALTHOUGH IT IS UNDERSTOOD THAT IN PRACTICE THERE ARE NO DIFFICULTIES IN APPLYING SAFEGUARDS TO RAPP-1.

2. THE AGREEMENT MAY BE TERMINATED AT ANY TIME BY ANY OF THE PARTIES UPON 6 MONTHS' NOTICE. IT IS ALSO DOUBTFUL WHETHER SUBSEQUENT GENERATIONS OF PRODUCED SPECIAL FISSIONABLE MATERIAL ARE UNDER SAFEGUARDS, EXCEPT MATERIAL DERIVED FROM SPECIAL FISSIONABLE MATERIAL PRODUCED DURING THE FIRST FIVE YEARS OF THE AGREEMENT (THIS IS BECAUSE THE FIRST SUPPLY OF HEAVY WATER WAS OF US ORIGIN AND THE AGREEMENT PROVIDES THAT THE ORIGINAL HEAVY WATER SHOULD BE REMOVED FROM THE SCOPE OF THE AGREEMENT BY RE-TRANSFER TO CANADA OR BY SUBSTITUTION AFTER FIVE YEARS).

3. ALTHOUGH THE DIRECTOR GENERAL, BY CABLES OF SEPTEMBER 1976 AND MARCH 1977, HAS REQUESTED URGENT CONSULTATIONS WITH THE PARTIES "WITH A VIEW TO ESTABLISHING CONDITIONS FOR EFFECTIVE AGENCY SAFEGUARDS CONSISTENT WITH CURRENT SAFEGUARDS APPROACHES", AND HAS STATED THAT IN THE INTERIM ALL CONDITIONS APPLICABLE DURING THE INITIAL FIVE YEAR PERIOD SHOULD CONTINUE TO APPLY, INDIA HAS ONLY REPLIED THAT THE "WHOLE MATTER WAS UNDER REVIEW". CANADA HAS EXPRESSED WILLINGNESS TO PARTICIPATE IN THESE CONSULTATIONS. NO CONSULTATIONS HAVE BEEN TAKEN SO FAR WITH A VIEW TO REACHING A SATISFACTORY SOLUTION.

CONFIDENTIAL

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PAGE 03 VIENNA 06664 01 OF 02 191555Z

4. THERE IS ALSO A DIFFERENCE OF OPINION BETWEEN CANADA AND INDIA ON US HEAVY WATER SUBSTITUTION. INDIA HOLDS THAT THE US HEAVY WATER IS DEEMED TO HAVE BEEN SUBSTITUTED IN CANADA BY CANADIAN HEAVY WATER, WHEREAS CANADA'S POSITION IS THAT NO SUBSTITUTION HAS AS YET OCCURRED. THIS IS OF RELEVANCE IN RELATION TO THE APPLICATION OF SAFEGUARDS TO SUBSEQUENT GENERATIONS OF SPECIAL FISSIONABLE MATERIAL AFTER THE INITIAL 5-YEAR PERIOD.

5. IN SUMMARY THE EXISTING SAFEGUARDS SITUATION ON RAPP-1 AND RAPP-2 IS NOT IN ACCORDANCE WITH PRESENT SAFEGUARDS POLICIES AND PRACTICES AND THERE IS A DIFFERENCE OF OPINION BETWEEN THE TWO GOVERNMENTS INVOLVED ON A BASIC ISSUE.. THERE HAS BEEN NO INDICATION THAT INDIA WOULD BE PREPARED TO UPGRADE THE EXISTING STA. IN FACT, ACCEPTANCE OF THE AGENCY'S PROPOSALS TO INDIA IN RELATION TO SOVIET HEAVY WATER WOULD HAVE RESULTED IN AN UPGRADING OF THE STA, WHICH WOULD THEN IN PRACTICE HAVE BEEN SUPERSEDED BY THE NEW - AGREEMENT.

THE PROPOSED AGREEMENT TO COVER THE SOVIET HEAVY WATER

6. THE SAFEGUARDS DOCUMENT DOES NOT DIRECTLY ADDRESS A SIT-

UATION SUCH AS THE SUPPLY OF HEAVY WATER FOR A REACTOR. IT MUST BE BORNE IN MIND, HOWEVER, THAT PARAGRAPH 19 OF PART II OF INFCIRC/66/REF.2 (CIRCUMSTANCES REQUIRING SAFEGUARDS) HAS BEEN MODIFIED IN PRACTICE, AS THE SCOPE OF SAFEGUARDS AGREEMENTS IS CONSIDERABLY BROADER THAN ENVISAGED BY THE DOCUMENT.

7. THE HEAVY WATER MUST BE REGARDED AS A CRUCIAL PART OF THE PLANT AS IT IS INDISPENSIBLE FOR RAPP-2 TO COMMENCE OPERATION. THE USE OF THE HEAVY WATER IN THE PLANT IS NOT MERELY OF A TRANSITORY NATURE WHICH COULD JUSTIFY THE INCLUSION OF THE FACILITY IN THE SUBSIDIARY PART OF THE INVENTORY. THIS IS ALSO QUITE CLEAR FROM INFCIRC/209 (MEMORANDUM B) WHICH SPECIFIES THAT SOURCE OR SPECIAL FISSIONABLE MATERIAL PRODUCED, PROCESSED OR USED IN A FACILITY FOR WHICH "TRIGGER LIST" ITEMS ARE SUPPLIED SHALL
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 VIENNA 06664 01 OF 02 191555Z

NOT BE DIVERTED TO NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES AND THAT SAFEGUARDS WOULD HAVE TO BE APPLIED TO

IN PARTICULAR COV/1621.

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PAGE 01 VIENNA 06664 02 OF 02 191537Z
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C O N F I D E N T I A L SECTION 2 OF 2 VIENNA 6664

USIAEA

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THE MATERIAL IN QUESTION. AS HEAVY WATER IS AN ITEM ON THE "TRIGGER LIST" ANY FACILITY FOR WHICH THE HEAVY WATER IS SUPPLIED MUST ALSO COME UNDER SAFEGUARDS PERMANENTLY. (A RECENT EXAMPLE IS THE SAFEGUARDS AGREEMENT WITH THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA INVOLVING THE SUPPLY OF FUEL FOR A RESEARCH REACTOR. THE AGREEMENT COVERS BOTH THE REACTOR (PERMANENTLY) AND THE FUEL).

8. THE AGENCY'S TECHNICAL STAFF DOES NOT CONSIDER THAT THE PRESENT DESIGN OF THE PLANT WOULD PERMIT A SEPARATION OF THE HEAVY WATER STREAMS. SOVIET SUPPLIED HEAVY WATER WOULD THUS GET MIXED WITH HEAVY
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 VIENNA 06664 02 OF 02 191537Z

WATER PRESENTLY IN RAPP-1. THIS IS AN ADDITIONAL REASON WHY THE NEW AGREEMENT SHOULD COVER BOTH RAPP-1 AND RAPP-2.

9. THE PROPOSED AGREEMENT PROVIDES FOR THE POSSIBILITY TO SUBSTITUTE INDIAN HEAVY WATER FOR SOVIET HEAVY WATER. THE REACTOR STATION WOULD THEN BE REMOVED FROM THE SCOPE OF THE AGREEMENT, UNLESS THERE IS A CLEAR STATEMENT THAT THE STATION ITSELF IS PERMANENTLY UNDER SAFEGUARDS TAKING INTO ACCOUNT THE TERMINATION PROVISIONS OF THE CANADA/INDIA/IAEA AGREEMENT THIS WOULD HAVE THE EFFECT OF TERMINATING ALL SAFEGUARES ON THE RAJASTHAN STATION.

10. FOR THE ABOVE REASONS THE DIRECTOR GENERAL WOULD NOT BE IN A POSITION TO RECOMMEND TO THE BOARD THE APPROVAL OF THE AGREEMENT UNLESS IT COVERS BOTH RAPP-1 AND RAPP-2 PERMANENTLY. STONE

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